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## CORRESPONDENCE.

BUILDING FUND ASSOCIATIONS—HEAD-NOTE TO ANDREWS V. ROANOKE ETC. CO.

*Editor Virginia Law Register:*

In my humble judgment there is an error in the syllabus to *Andrews v. Roanoke etc.*, p. 334, current issue of the REGISTER, to which attention should be directed. The syllabus contains this significant language: "Upon dissolution or insolvency outside creditors are to be first paid, but withdrawing members whose notices of withdrawal have previously matured, are entitled to be paid before other stockholders receive anything."

It is respectfully submitted that the opinion warrants no such conclusion. It is indeed true that Judge Keith used excerpts from Thompson and Endlich, which, at first glance, and without reference to their contexts, appear to sustain such a position, but in reality they do not. The excerpt from Thompson refers to the case of solvent associations in process of liquidation, and the excerpt from Endlich presents the English rule, which is not followed in this country.

Both Endlich and Thompson are strongly against such priority among stockholders. Furthermore, the question of priority among stockholders was not before the court. The question before it, and the question decided, was the right of the withdrawing member to sue, and the court used the excerpts mentioned simply as stated in the opinion, "in support of the position that a withdrawing member has not lost all of his right or interest as such (member) in the association."

The syllabus is misleading in the extreme.

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